



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153299

PRELIMINARY RECITALS

Pursuant to a petition filed November 05, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on January 07, 2014, at West Bend, Wisconsin.

The issue for determination is whether the Washington County Department of Social Services (the agency) correctly calculated the Petitioner's FoodShare allotment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Ken Benedum, Economic Support Specialist
Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.

2. On November 1, 2013, the agency sent Petitioner a notice indicating that effective December 1, 2013, his FoodShare allotment would be reduced from \$189.00 per month to \$15.00 per month. (Exhibit 4)
3. On November 4, 2013, the Petitioner submitted a number of medical bills, some of which were sent to collection agencies. (Exhibit 8)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 5, 2013. (Exhibit 1)
5. On November 18, 2013, the agency sent Petitioner a notice indicating that his FoodShare benefits would be \$57.00 per month effective December 1, 2013. (Exhibit 6)
6. Petitioner's sole source of income is from Social Security, in the amount of \$1268.00 per month. (Testimony of Petitioner; Exhibit 6, pg. 7)
7. Petitioner paid rent in the amount of \$406. He was also responsible for paying for the utilities. (Id.)
8. Petitioner's assistance group size is one and his household is considered an EBD - Elderly, Blind or Disabled household. (Exhibit 6)
9. The agency allowed a medical expense from a City of West Bend ambulance bill totaling \$1,730.00, which works out to an average of \$288.33 over six months ($\$1,730 \div 6$). The agency did not allow any other medical expense submitted by Petitioner. (Exhibit 3; Exhibit 6, pg. 7)

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4*. The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1*. The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1*.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$152 per month for a household of 1-3 people. *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5)*.

The heating standard utility allowance (HSUA) is \$450.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

Petitioner filed an appeal because he believes the agency made a mistake by not allowing more of his medical expenses to be used as deduction.

The rules governing the use of medical expenses are found in FSH §4.6.4.1 which states that medical expenses are allowable when:

1. They are previously acquired before the current certification period AND not yet paid, or
2. They are acquired during the current certification period, or
3. They are current payments, made during the current certification period.
4. They have not been previously allowed as a Food Share Deduction.

“One time medical expenses (i.e. hospital bills) can be budgeted for one month or averaged over the remaining certification period.” *FSH §4.6.4.1*

“Medical expenses paid prior to the certification period are not allowable.” (Id.)

The medical bills in dispute are from:

1. Americollect, a collection agency seeking payment on behalf of St. Joseph’s Community Hospital, Community Memorial Hospital, Aurora Health Care and “others”.
2. Med-Health Financial Services, a collection agency seeking payment on behalf of Medical College Physicians
3. Nationwide Credit Corporation, a collection agency seeking payment on behalf of Infinity Healthcare Physicians
4. Virtuoso Sourcing Group / Pendrick Capital Partners, a collection agency seeking payment on behalf of Infinity Healthcare Physicians
5. Samaritan Health Center
6. Washington County Mental Health Center

See Exhibit 8

AMERICOLLECT

The agency rejected all bills from collection agencies because, “it cannot be determined if the bills are entirely a medical expense.” (Exhibit 3) The Americollect bill is a collection action on behalf St. Joseph’s Community Hospital, Community Memorial Hospital and Aurora Health Care. This begs the question of what other type of services is a person going to get at a hospital, other than medical services? It is reasonable to conclude that the Petitioner received medical care for which the hospitals are billing him. As

such, the collections for St. Joseph's Community Hospital, Community Memorial Hospital and Aurora Health Care should be allowed, unless they were used as a deduction during a prior certification period.

It should be noted that Exhibit 2, is an itemization for the outstanding \$19.00 debt listed on the first Americollect bill for Aurora Health Care. This supports the conclusion that Petitioner was being billed for medical services by Aurora Health Care. It also supports Petitioner's testimony that he is not aware of any interest or additional collection fees being included in the amounts due and payable to the hospitals.

With regard to the amount listed in the Americollect bill under "others", that amount cannot be allowed, because it is unclear who the creditor is for that amount or what it is for.

MEDFINANCIAL SERVICES

Given that the Med-Health Financial Services bill is intended to collect money for services render by Medical College Physicians, it is reasonable to conclude the bill is for medical serves rendered to the Petitioner. Again, what else would the Petitioner be receiving from physicians associated with the Medical College of Wisconsin? As such the bill should be allowed, as long as it was not used as a medical expense for a prior FoodShare certification period.

NATIONWIDE CREDIT CORPORATION / VIRTUOSO SOURCING GROUP

The bill for Nationwide Credit Corporation and the bill for Virtuosos Sourcing Group/Pendrick Capital Partners are collection actions on behalf of Infinity Health Care Physicians. It is reasonable to conclude that Petitioner received health care services from this organization. As such, the bills should be allowed, unless they were used as expenses during a prior FoodShare certification period.

SAMARITAN HEALTH CENTER

The agency again stated that it was not going to allow this bill as an expense because it could not tell whether it was in whole or in part a medical expense. This again begs the question of what else the bill would be for. It is reasonable to conclude that a bill from Samaritan Health Center would be for medical services. As such, the bill should be allowed, unless it was used during a prior certification period.

WASHINGTON COUNTY HUMAN SERVICES MENTAL HEALTH COMPLEX

The agency did not allow this expense because Petitioner was covered by Medicaid at the time services were rendered. However, whether Petitioner was covered by Medicaid is somewhat irrelevant, if he still had an out of pocket cost. Unfortunately, the bill from Washington County Human Services is confusing, listing charges and a balance of \$105.00, but then showing a Patient Balance Due of \$247.00 and an Insurance Balance Due of \$105.00. Without some further explanation of what this all means, the medical expense cannot be allowed at this time.

OTHER MATTERS

FSH §1.2.1.3 states that the local agency must assist in obtaining the requested verification, as long as the applicant/participant has not refused to cooperate with the agency. FSH §1.2.1.3 further states that "If all attempts to verify the information have been unsuccessful because the person or organization providing the information has failed to cooperate with the household and agency, and all other sources of verification are unavailable, determine an amount to be used for certification purposes based on the best available information...Best available information may include; customer statement, oral or written." See also 7 CFR 273.2(f)(5)

Some consideration was given to having the agency issue further requests for verification from the Petitioner, since the agency was concerned about possible interest or collection fees. However, the Petitioner testified credibly that he was unaware of any interest or additional collection fees.

Petitioner further testified that he has attempted to obtain itemized bills from the aforementioned hospitals and has been told that they will not release that information because the bills have been sent to collection agencies. The Petitioner testified that he then attempted to contact the various collection agencies three times without success.

It is clear that Petitioner has made an effort to obtain further verification of his medical expenses, with little success. Indeed, he did obtain Exhibit 2, which is a more itemized bill from Aurora Health Care. It is unclear if the agency has done anything to assist the Petitioner in obtaining additional verification. However, despite Petitioner's best efforts, the best available information regarding his medical expenses are the bills he submitted to Washington County on November 4, 2013. (See Exhibit 8) As such, Petitioner's excess medical expense deduction will have to be based upon those bills per FSH §1.2.1.3.

In summary, the agency is going to have to go back and review whether the medical expenses approved above, have been previously used in a FoodShare certification period and if not, they should be allowed for the current certification period or future certification periods if not used now, and Petitioner's FoodShare allotment will need to be re-determined.

If the Petitioner still disagrees with the agency's calculation of his FoodShare benefits, he can file a NEW appeal.

CONCLUSIONS OF LAW

The agency did not correctly determine Petitioner's FoodShare allotment effective December 1, 2013 forward.

THEREFORE, it is

ORDERED

That the agency review Petitioner's case to see if any of the medical bills from St. Joseph's Community Hospital, Community Memorial Hospital, Aurora Health Care, Medical College Physicians, Infinity Healthcare Physicians and Samaritan Health Center were used in a prior FoodShare certification period.

The agency shall then re-determine Petitioner's FoodShare allotment, allowing medical expenses that have not been used for a prior certification period.

The agency shall take all administrative steps necessary to complete these tasks within ten days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as

"PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

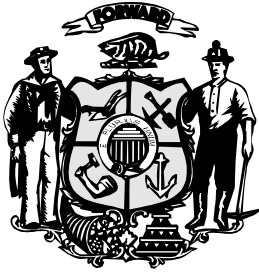
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 7th day of February, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 7, 2014.

Washington County Department of Social Services
Division of Health Care Access and Accountability